

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
amendment of ARM 24.156.625,)	ON PROPOSED AMENDMENT,
unprofessional conduct, the)	ADOPTION AND REPEAL
proposed adoption of NEW RULES)	
I-XVI, and the proposed)	
repeal of ARM 24.156.1801,)	
24.156.1802, 24.156.1803,)	
24.156.1804, 24.156.1805,)	
24.156.1806, 24.156.1807,)	
24.156.1901, 24.156.1902,)	
24.156.1903, 24.156.1904,)	
24.156.1905, 24.156.2001,)	
24.156.2002, 24.156.2003,)	
24.156.2004, 24.156.2005,)	
24.156.2011, 24.156.2012,)	
24.156.2013 and 24.156.2014,)	
pertaining to emergency medical)	
technician licensure)	

TO: All Concerned Persons

1. On September 20, 2003, at 1:00 p.m., a public hearing will be held at the Cottonwood Inn, Highway 2 East, Glasgow, Montana, to consider the proposed amendment, adoption and repeal of the above-stated rules. Another public hearing will be held on September 25, 2003, at 5:00 p.m. in Room C-209 of the Cogswell Building, 1400 Broadway, Helena, Montana to consider the proposed amendment, adoption and repeal of the above-stated rules.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Medical Examiners no later than 5:00 p.m., on September 15, 2003, to advise us of the nature of the accommodation that you need. Please contact Jeannie Worsch, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2363; e-mail dlibsmed@state.mt.us.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: There is reasonable necessity to adopt the following proposed NEW RULES, proposed amendments and proposed repeals in order to modernize Montana's existing rules related to emergency medical technicians (EMTs). The Board of Medical Examiners and its staff has been working for more than a year with the Department of Public Health and Human Services (DPHHS), medical doctors and EMTs to prepare a comprehensive revision

to rules related to EMTs and emergency medical service (EMS) entities. Under current law, the Board of Medical Examiners licenses and regulates the individual workers who provide pre-hospital emergency medical services, while DPHHS licenses and regulates hospitals and EMS entities such as ambulance companies.

The current EMT licensing rules (which are proposed for repeal) are based upon the 1985 version of the national EMT training curriculum produced by the United States Department of Transportation (USDOT). Since 1985, new medical equipment, techniques and procedures have been introduced and become widely accepted by health care professionals. In 1999, USDOT adopted new EMT curricula. The Board of Medical Examiners believes that it is essential to the public health and safety that Montana EMTs be certified under the modern national standards.

4. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.156.625 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 3, MCA:

(1) through (14) remain the same but are renumbered (a) through (n).

~~(15)~~(o) ~~Commission~~ commission of an act of sexual abuse, sexual misconduct or sexual exploitation, whether or not related to the licensee's practice of medicine;

(16) through (22) remain the same but are renumbered (p) through (v).

~~(23)~~(w) ~~Failing~~ failing to comply with an agreement the licensee has entered into with the program established by the board under 37-3-203(4), MCA-;

(x) failing, as a medical director, to supervise, manage, appropriately direct and train emergency medical technicians (EMTs) practicing under the licensee's supervision, according to scope of practice and current board-approved USDOT curriculum standards including revisions and board-approved statewide protocols for patient care;

(y) failing to supervise, manage, appropriately delegate and train medical assistants under the licensee's supervision, according to scope of practice and generally accepted standards of practice;

(z) failing to supervise, manage, appropriately delegate and train physician assistants-certified practicing under the licensee's supervision, according to board-approved utilization plans, scope of practice and generally accepted standards of practice;

(aa) failing to supervise, manage and appropriately train residents, as defined in 37-3-305, MCA, practicing under the licensee's supervision, according to scope of practice and generally accepted standards of practice; or

(ab) having voluntarily relinquished or surrendered a license or privileges or having withdrawn an application for licensure or privileges, while under investigation or prior to the granting or denial of a application in this state, or in another state or jurisdiction.

AUTH: 37-1-319, 37-3-203, MCA

IMP: 37-1-131, 37-3-202, 37-3-305, 37-3-309, 37-3-323, MCA

REASON: There is reasonable necessity to amend ARM 24.156.625 because unprofessional conduct in the supervision of EMTs, medical assistants, physician assistants-certified and residents were not addressed in the prior rules and the board believes that unprofessional conduct under 37-1-316, MCA, does not fully encompass specific practices and standards with regard to physician supervision of these health care workers. The amendments are proposed at this time because of the proposed EMT rules that follow.

There is reasonable necessity for the board to amend ARM 24.156.625(15) [renumbered as ARM 24.156.625(1)(o)] to ensure that it is able to sanction unprofessional conduct specifically related to sexual misconduct by licensees. The board has been faced with licensees who have claimed that their sexual misconduct was unrelated to their practice of medicine. The board notes that there is a specific requirement of "good moral character" in 37-3-305, MCA. Likewise, there is reasonable necessity to add the language in subsection (1)(ab) because the board has been faced with attempts by physicians to avoid discipline in other jurisdictions by voluntarily surrendering their licenses.

Finally, there is reasonable necessity to make technical amendments to the rule's format to comply with style guidelines issued by the Secretary of State, and to update the citation of implementing authority.

5. The proposed new rules provide as follows:

NEW RULE I DEFINITIONS For purposes of the rules set forth in this sub-chapter, the following definitions apply:

(1) "Approved course" means a course of instruction that meets the specifications and requirements for a particular level or endorsement for EMT training approved by the board or its designee.

(2) "Approved program" means a multiple of approved courses offered by an entity and approved by the board or its designee.

(3) "Board" means the board of medical examiners, department of labor and industry.

(4) "Clinical experience" means supervised instruction and practice in a patient care setting.

(5) "Clinical preceptor" means an individual trained to a level greater than the student, who is responsible for

supervising and teaching the student in a clinical setting under the supervision of the service medical director.

(6) "Curriculum" means the combination of instructor lesson plans, course guides and student study guides prepared by the United States Department of Transportation (USDOT) and commonly known as the "1999 curriculum".

(7) "Emergency medical service" or "EMS" means a pre-hospital care and transportation provider licensed by the department of public health and human services pursuant to Title 50, chapter 6, MCA. EMS is the official designation for what is commonly referred to as an ambulance service.

(8) "Emergency medical technician" or "EMT" means any pre-hospital emergency care personnel licensed by the board.

(9) "Emergency medical technician - basic" or "EMT-B" means an individual who has successfully completed an approved EMT-B course and is licensed by the board as an EMT-B.

(10) "Emergency medical technician - first responder" or "EMT-F" means an individual who has successfully completed an approved EMT-F course and is licensed by the board as an EMT-F.

(11) "Emergency medical technician - intermediate" or "EMT-I" means an individual who has successfully completed an approved EMT-I course and is licensed by the board as an EMT-I.

(12) "Emergency medical technician - paramedic" or "EMT-P" means an individual who has successfully completed an approved EMT-paramedic course and is licensed by the board as an EMT-P.

(13) "EMT service" means a pre-hospital emergency care service licensed by the department of public health and human services pursuant to Title 50, chapter 6, MCA.

(14) "Lead instructor" means a person who is licensed by the board and authorized to offer and conduct EMT courses. The lead instructor is under the supervision of the service medical director.

(15) "NPDB" means the national practitioner databank established by Public Law 99-660 (42 U.S.C. 11101, et seq.).

(16) "NREMT" means the national registry of emergency medical technicians, an independent, not-for-profit, non-governmental certification agency based in Columbus, Ohio.

(17) "On-line medical direction" means real-time interactive medical direction, advice or orders to EMTs providing patient care.

(18) "On-line medical director" is the individual who provides on-line medical direction and who is supervised by the service medical director.

(19) "Service medical director" means an unrestricted Montana licensed physician or physician assistant-certified who is responsible professionally and legally for overall medical care provided by a licensed EMT service and/or for the training provided in an approved program/course, including all EMTs on the service or in training.

(20) "Statewide protocols" means a written, standardized manner of administering patient care statewide, approved by

the board.

AUTH: 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: The Board finds that there is reasonable necessity to adopt NEW RULE I to define the terms necessary for the new emergency medical technician rules. Previous rules defined terms that no longer exist in the new rules, are obsolete or are no longer applicable to the new rules.

NEW RULE II UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following are considered unprofessional conduct for a licensee or license applicant under Title 50, chapter 6, part 2, MCA:

(a) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether a misdemeanor or felony, and whether or not an appeal is pending;

(b) conduct likely to deceive, defraud or harm the public, including but not limited to practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in activities required of a licensee under this sub-chapter;

(c) acting in such a manner as to present a danger to public health or safety, or to any patient including, but not limited to, incompetence, negligence or malpractice;

(d) making a false or misleading statement regarding the licensee's skill in connection with the activities required of a licensee under this sub-chapter;

(e) use of a false, fraudulent or deceptive statement, whether written or verbal, in connection with the activities required of a licensee under this sub-chapter;

(f) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 1, MCA, or rules under this sub-chapter. A report from the NPDB or a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

(g) having voluntarily relinquished or surrendered a professional or occupational license, certificate or registration in this state, or in another state or jurisdiction;

(h) having withdrawn an application for licensure, certification or registration, while under investigation or prior to a determination of the completed application in this state, or in another state or jurisdiction;

(i) failure to practice within the scope of practice of the EMT level and endorsements;

(j) failure to practice within adopted statewide and/or local protocols established and approved by the board and

service medical director;

(k) failing to maintain continuous NREMT registration while licensed as an EMT in the state of Montana;

(l) willful disobedience of the provisions Title 37, chapter 1, MCA, any rule adopted by the board, or any order of the board regarding enforcement of discipline of a licensee;

(m) habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally; this provision does not apply to a licensee who is in compliance with an approved therapeutic regimen as described in 37-3-203, MCA;

(n) failing to furnish to the board or its designee information requested by the board or a response to an inquiry;

(o) failing to cooperate with a lawful investigation conducted by the board;

(p) failing to comply with any statute or rule under the board of medical examiner's jurisdiction;

(q) filing a complaint with, or providing information to, the board which the licensee knows, or ought to know, is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith under 37-1-308, MCA;

(r) failing to report to the board any adverse judgment or award arising from a medical liability claim or other unprofessional conduct;

(s) commission of any act of sexual abuse, misconduct or exploitation by the licensee whether or not related to the practice;

(t) failing to exercise technical competence in carrying out EMT care;

(u) testifying in a legal proceeding on a contingency fee basis;

(v) falsifying and altering patient records or trip reports, intentionally documenting patient records or trip reports incorrectly, failing to document patient records or prepare trip reports;

(w) diversion of a medication for any purpose or a violation of state or federal laws governing the administration of medications;

(x) failing, as a clinical preceptor or lead instructor, to supervise, manage, or train students practicing under the licensee's supervision, according to scope of practice, generally accepted standards of patient care, board-approved USDOT curriculum, including revisions and board-approved statewide protocols;

(y) willfully harassing, abusing or intimidating a patient, either physically or verbally;

(z) practicing as an EMT at any level without a current, active Montana license at that level;

(aa) failing to comply with any agreement the licensee has entered into with a program established by the board under 37-3-203(4), MCA; and

(ab) any other act, whether specifically enumerated or not that in fact constitutes unprofessional conduct.

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE II because unprofessional conduct was not addressed in the old rules and the board believes that unprofessional conduct under 37-1-316, MCA does not fully encompass specific practices and standards with regard to emergency medical technicians. The board needs to ensure that it is able to sanction unprofessional conduct specifically related to emergency medical technicians.

NEW RULE III EMT-LICENSURE QUALIFICATIONS (1) The board shall license an applicant as an EMT at the appropriate level, if the applicant:

(a) successfully completes a board approved EMT course of instruction;

(b) possesses current NREMT registration for the appropriate level of licensure or higher, except for EMT-Fs who have maintained continuous licensure prior to January 1, 2004;

(c) provides all the information necessary to establish eligibility for licensure according to the licensure requirements as specified by the board or its designee;

(d) possesses a high school diploma or equivalency; and

(e) is 18 years of age or older.

AUTH: 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE III because 50-6-203, MCA, requires the board to adopt rules to implement Title 50, chapter 6, part 2, MCA. The existing rules do not adequately address the qualifications for emergency medical technician licensure.

NEW RULE IV EMT LICENSE APPLICATION (1) An applicant for an EMT license, at any level, shall submit an application on a form prescribed by the board. The application must be complete and accompanied by the appropriate fees and the following documentation:

(a) applicant's verification of course completion for the appropriate level and/or endorsement levels for which the applicant is applying;

(b) proof the applicant possesses a high school diploma or its equivalent;

(c) a copy of the applicant's birth certificate or other verifiable evidence of the applicant's date of birth, such as a driver's license;

(d) a current NREMT registration card equal to or greater than the level for which the applicant is applying; and

(e) an original NPDB self-query.

(2) Incomplete applications will be returned. The applicant may correct any deficiencies, complete any requirements necessary for licensure and re-submit the application to the board office. Failure to re-submit the deficient application within one year from the date of the original submission will be treated as a voluntary withdrawal of the application and all fees will be forfeited.

(3) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (2) by submitting a withdrawal in writing to the board. All application fees submitted will be forfeited.

(4) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees to begin the licensing and verification process.

(5) Completed applications will be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as it deems reasonably necessary.

AUTH: 50-6-203, MCA

IMP: 37-1-104, 37-1-131, 37-3-203, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE IV because the existing rules do not address completely the application process and because there is a need to ensure that EMT applications be consistent with the department's application process.

NEW RULE V OUT-OF-STATE EMT APPLICANT (1) Out-of-state applicants who qualify under substantially equivalent education and examination requirements as set forth in this chapter and who possess a currently active EMT license or certification to practice in good standing in another state, may apply for an EMT license by reciprocity, at the same or lesser level, without examination.

(2) A qualified out-of-state licensed applicant requesting EMT licensure in Montana shall complete a reciprocity application on a form prescribed by the board and submit the application with the required supporting documentation and appropriate fees to the board.

(3) Out-of-state applicants licensed in other states shall cause all states and jurisdictions in which the applicant holds or has ever held a license to submit verification of licensure directly to the board on behalf of the applicant.

(4) Out-of-state applicants shall obtain a NPDB self-query and submit the self-query with the application to the board.

(5) If the applicant has possessed a professional or occupational license in another healthcare field, the applicant shall disclose the information to the board in the application for licensure.

(6) For the purposes of 37-1-304, MCA, the board defines "substantially equivalent" as approved training in accordance with board-approved USDOT curriculum standards, including revisions, and passage of the NREMT written and practical examination or, in the opinion of the board, completed training, experience and passage of an examination equivalent to current board standards. Work experience obtained in the profession will not be considered as the sole basis of the applicant's qualifications.

AUTH: 50-6-203, MCA

IMP: 37-1-131, 37-1-304, 37-3-203, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE V to ensure that applicants from out-of-state are afforded the opportunity to be licensed by reciprocity so long as the state in which they are licensed has substantially equivalent standards. The existing rules do not provide for licensure by reciprocity.

NEW RULE VI EMT LICENSE RENEWAL (1) EMT licenses are issued on a biennial renewal cycle. EMT licenses expire on March 31 of the last year of the two-year cycle.

(2) Except as provided in (3), in order to renew an EMT license, the licensee must:

(a) submit a license renewal application on a form or through electronic means prescribed and supplied by the board;

(b) submit current NREMT registration at the level equal to or greater than the licensed level; and

(c) submit payment of the renewal fee set in [NEW RULE VIII].

(3) An individual licensed prior to January 1, 2004, as a first responder or first responder ambulance, and wishing to renew the license as an EMT-F, may either:

(a) become NREMT registered by January 1, 2007; or

(b) complete a 16-hour board-approved USDOT curriculum refresher course each renewal period. The licensee shall provide verification of completion to the board upon request.

(4) The board will not renew first responder or first responder ambulance licenses on or after December 31, 2006. Renewal licenses issued after that date will be issued as EMT-F licenses.

(5) Incomplete renewal applications will be returned to the licensee and will not be considered received by the board.

(6) For the EMT license renewal cycle following July 1, 2005, if the completed renewal application is postmarked after March 31 of the renewal year, the licensee will be assessed a late renewal fee in addition to the license renewal fee set in [NEW RULE VIII].

(7) Waivers of the late fee are at the discretion of the board.

AUTH: 50-6-203, MCA

IMP: 37-1-131, 37-1-306, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE VI because 50-6-203, MCA, mandates that the board adopt rules relating to renewal. The existing EMT rules are silent about renewal.

NEW RULE VII LAPSED LICENSE (1) A lapsed EMT license may be renewed upon completion of a lapsed license renewal application. To renew a lapsed license the applicant shall:

(a) complete a lapsed license renewal application and submit it to the board;

(b) pay the license fee plus late renewal fee for each year the license has lapsed up to three years;

(c) submit a current NPDB self-query; and

(d) submit a current NREMT certification.

(2) Pursuant to 37-1-141, MCA, a professional or occupational license that has not been renewed within three years of the most recent renewal date automatically terminates.

(3) A lapsed license that has terminated may not be reinstated. A person whose license has lapsed shall re-apply for licensure and complete a new application pursuant to [NEW RULE IV].

AUTH: 37-1-141, 37-3-203, 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE VII because the existing EMT rules do not address lapsed licenses and because 37-1-141, MCA, allows the board to adopt rules regarding lapsed licenses.

NEW RULE VIII FEES (1) The following fees must be paid in connection with EMT licensure:

(a) EMT-F application fee	\$20.00
(b) EMT-B application fee	30.00
(c) EMT-I application fee	40.00
(d) EMT-P application fee	60.00
(e) license endorsement fee	10.00
(f) EMT-F biennial renewal fee	20.00
(g) EMT-D biennial renewal fee	30.00
(h) EMT-I biennial renewal fee	40.00
(i) EMT-P biennial renewal fee	60.00
(j) late renewal fee	150.00
(k) verification of licensure fee	20.00
(l) program approval	50.00
(m) course approval	15.00

(2) All fees provided for in this rule are non-refundable and are not prorated for portions of the licensing

period.

AUTH: 50-6-203, MCA

IMP: 37-1-134, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE VIII because 37-1-134, MCA, requires that the board set fees commensurate with cost.

The board estimates that approximately 5000 persons will be directly affected by the fee schedule in NEW RULE VIII. The board estimates the approximate cumulative financial impact to be \$176,000 over a two-year period, based upon the number of the various categories of licensures and endorsements.

NEW RULE IX EMT TRAINING PROGRAM/COURSE APPLICATION AND APPROVAL (1) An individual, corporation, partnership or any other organization may not initiate or conduct any initial and/or refresher courses for EMT instruction without prior approval of the board or its designee.

(2) Program or course approval applications must be submitted on a form prescribed by the board with appropriate fees. The application must designate the service medical director and lead instructor.

(3) Completed applications will be reviewed for compliance with board statutes, rules, board-approved USDOT curriculum, including revisions and statewide protocols. The board or its designee may request such additional information or clarification of information provided in the application as it deems reasonably necessary.

(4) Incomplete applications will be returned. The service medical director and/or lead instructor may correct any deficiencies, complete any requirements necessary for course approval at the level applied for and re-submit the application to the board. Failure to re-submit the application within one year will be treated as a voluntary withdrawal of the application and all fees will be forfeited.

(5) The service medical director and/or lead instructor may voluntarily withdraw the course approval application prior to the one-year deadline provided in (4), by writing to the board. All fees submitted will be forfeited.

(6) After withdrawal of an application, a new program or course approval application may be submitted including all supporting documentation and appropriate fees to begin the course approval process.

(7) The board or its designee shall approve EMT training courses that comply with current board-approved USDOT curriculum, including revisions, board-approved statewide protocols, policies and procedures.

(a) Program approvals of multiple courses offered by a single provider may be approved for up to one year without re-application and approval.

(b) Single courses must be approved on an individual basis.

(8) The board shall not approve an EMT training course which does not comply with current board-approved USDOT curriculum, including revisions, board-approved statewide protocols, policies and procedures.

(a) The board shall provide in writing the reason for course denial to the course applicant.

(b) The board may cancel approval of training courses for failure to comply with any of the requirements of this chapter, providing false information, or failure to provide the board or its designee access to the course and/or other information necessary to assure compliance with board statutes and rules.

(9) In the event the board's designee disapproves an EMT training course, the application will be considered by the board during the next regularly scheduled board meeting or the lead instructor and/or service medical director may request in writing an alternate regularly scheduled board meeting.

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE IX because training and approval of training courses previously were delegated to DPHHS. The board needs NEW RULE IX to ensure that it regulates the training and approval of training courses for EMTs as required under 50-6-203, MCA, and because the previous rules did not allow for flexibility in modifying standards for medical practice where appropriate. This rule will allow the board the flexibility to incorporate updated standards of medical practice as they develop and relate to emergency medical systems.

NEW RULE X EXAMINATIONS (1) Effective January 1, 2004, examinations for endorsements conducted on behalf of the board must be conducted in accordance with the policies and procedures established by the board.

(2) An EMS medical director shall be responsible for the conduct of all locally administered examinations and shall assure that all board policies and procedures are followed. EMS medical directors may delegate duties where appropriate. Except in the case of first responder and basic EMT levels, the EMS medical director may not delegate the administration of the NREMT written examination.

(3) Examination materials must be requested from the board by the EMS medical director on forms prescribed by the board 30 days prior to offering an examination. Examination materials will be sent to the medical director from the board office within seven working days of the request. EMS medical directors shall return the completed examination material within seven working days after the examination has been given.

(4) When conducting NREMT EMT-I and EMT-P examinations, the board shall designate the national registry representative. The EMS medical director shall request a

NREMT representative on a form prescribed by the board not less than 90 days prior to the EMT-I or EMT-P examinations.

AUTH: 50-6-203, MCA

IMP: 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE X because the board requires that all licensed EMTs except for first responders licensed prior to January 1, 2004, be national registry registered in order to practice. This new rule allows first responders licensed prior to January 1, 2004, to be grandfathered into the licensing structure. The exams are standardized, national examinations provided by the national registry that can be offered at a local level in order to reduce costs.

NEW RULE XI LEVELS OF EMT LICENSURE INCLUDING ENDORSEMENTS (1) The board issues four levels of licenses for EMTs. Each level has endorsements that may be added to an EMT license. Endorsements do not have to be acquired in the order listed below and may consist of one or more combinations within each EMT level. The levels of licensure and endorsements are as follows:

- (a) For EMT - first responder (EMT-F) licenses:
 - (i) EMT-F/immobilization (EMT-F 1);
 - (ii) EMT-F/monitoring (EMT-F 2); and
 - (iii) EMT-F/ambulance (EMT-F 3).
- (b) For EMT - basic (EMT-B) licenses:
 - (i) EMT-B/airway (EMT-B 1);
 - (ii) EMT-B/monitoring (EMT-B 2);
 - (iii) EMT-B/IV and IO (intervenous infusion and interosseous infusion) initiation (EMT-B 3);
 - (iv) EMT-B/IV and IO maintenance (EMT-B 4);
 - (v) EMT-B/endotracheal intubation, for patients more than eight years old (EMT-B 5); and
 - (vi) EMT-B/medication (EMT-B 6).
- (c) For EMT - intermediate (EMT-I) licenses:
 - (i) EMT-I/needle decompression/surgical airway (EMT-I 1);
 - (ii) EMT-I/immunizations (EMT-I 2);
 - (iii) EMT-I/drips and pumps (EMT-I 3); and
 - (iv) EMT-I/12 lead transmit (EMT-I 4).
- (d) For EMT - paramedic (EMT-P) licenses:
 - (i) EMT-P/12 lead interpretation (EMT-P 1);
 - (ii) EMT-P/medications (EMT-P 2);
 - (iii) EMT-P/fibrinolytic with 12 lead interpretation (EMT-P 3); and
 - (iv) EMT-P/critical care transport (EMT-P 4).

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XI because the board is implementing the USDOT curriculums for

1999 which are substantially upgraded from the USDOT curriculums for 1985 which are currently in place. Endorsement levels are necessary to prevent EMTs licensed under the 1985 USDOT curriculums from being limited to a lesser level of licensure which would adversely impact many communities in Montana which depend on their EMTs for a level of licensure authorized under the 1985 USDOT curriculum. If EMTs who were previously licensed at a higher level could no longer serve their communities at that level, the cost to train and recruit new EMTs would adversely affect emergency medical care delivered to patients in rural Montana communities.

NEW RULE XII INITIAL EMT COURSE REQUIREMENTS (1) An EMT-F course shall be managed by a lead instructor. The lead instructor shall maintain overall responsibility for the quality, consistency and management of the course. The lead instructor shall:

(a) conduct the EMT-F courses in accordance with current board-approved USDOT curriculum, including revisions and statewide protocols, policies and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) complete the course within six months of the date the course commences; and

(d) provide at least one instructor per six students when practical skills are taught.

(2) An EMT-B course shall be managed by a lead instructor. The lead instructor shall maintain overall responsibility for the quality, consistency and management of the course. The lead instructor shall:

(a) conduct the EMT-B courses in accordance with current board-approved USDOT curriculum, including revisions, and statewide protocols, policies and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) complete the course within 12 months of the date the course commences;

(d) provide at least one instructor per six students when practical skills are taught; and

(e) provide a minimum of 10 hours of clinical experience with an EMS or in a local hospital emergency room.

(3) An EMT-I or EMT-P course shall be managed by a lead instructor under the supervision of a service medical director. The lead instructor and service medical director shall maintain overall responsibility for the quality, consistency and management of the course. The lead instructor shall:

(a) conduct the EMT-I and EMT-P courses in accordance with current board-approved USDOT curriculum, including revisions and statewide protocols, policies and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) provide clinical experience as specified in the

- approved curriculum and in accordance with this chapter; and
- (d) provide that the course is completed as follows:
 - (i) the EMT-I course, within 18 months from the starting date of course; and
 - (ii) the EMT-P course, within 24 months from the starting date of course;
 - (e) provide clinical experiences with no fewer than one clinical preceptor for every two students;
 - (f) provide a sufficient patient volume to allow students to complete all clinical experiences within the course dates;
 - (g) provide EMT-I course clinical facilities that include but are not limited to:
 - (i) an emergency department with physician staffing;
 - (ii) intensive care beds or coronary care beds; and
 - (iii) an EMS licensed at or above the EMT advanced level;
- and
- (h) provide for the EMT-P course clinical facilities that include, but are not limited to:
 - (i) an emergency department with physician staffing;
 - (ii) intensive care beds or coronary care beds;
 - (iii) operating/recovery room;
 - (iv) pediatric beds;
 - (v) labor/delivery room/newborn nursery;
 - (vi) psychiatric beds;
 - (vii) morgue;
 - (viii) radiology department;
 - (ix) respiratory therapy department; and
 - (x) an EMS licensed at or above the EMT advanced level.

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XII because the board is adopting the USDOT 1999 curriculum which require a substantially different initial course and because the initial course will be offered by a lead instructor licensed by the board who can be disciplined by the board if he or she fails to comply with the board's rules, policies and procedures. Courses previously offered under the 1985 USDOT curriculum were offered by unlicensed individuals who could not be disciplined for violating the board's directives. Additionally, the board is required by 50-6-203, MCA, to adopt rules regarding curriculum and training.

NEW RULE XIII EMT CLINICAL REQUIREMENTS (1) EMT-B programs must assure that the student completes, as a minimum, 10 hours of observational time with an EMS, or in an emergency room if an EMS is not readily available. During this time the student shall:

- (a) have at least two patient contacts during which the student can observe patient care; and
- (b) have at least two patient contacts in which the student conducts a patient assessment.

(2) EMT-I and EMT-P programs must assure that the student completes, as a minimum, the clinical contact requirements identified in the board-approved USDOT curriculum, including revisions.

AUTH: 50-6-203, MCA

IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XIII because the board is modifying its clinical requirements in order to be consistent with and incorporate the 1999 USDOT curriculum and because it is necessary to allow the board flexibility to modify its clinical requirements as medical practice changes.

NEW RULE XIV PROCEDURES FOR REVISION OF BOARD-APPROVED EMT CURRICULUM AND STATEWIDE PROTOCOLS (1) At the regularly scheduled January and July board meetings or no less than twice per year, an individual, EMS or any other organization may initiate a petition for revisions to the board-approved EMT curriculum and/or statewide protocols.

(2) The petition must be submitted on a form prescribed by the board with the following supporting documentation:

(a) a written recommendation and/or position statement for revision to the board-approved curriculum and/or statewide protocols; and

(b) literature supporting the petitioner's recommendations and/or position.

(3) Upon receiving the petition application, the board will proceed in three phases, as follows:

(a) the board will consider the petitioner's initial petition to determine whether or not to proceed with public comment for the proposed revision. If approved, the board will schedule public comment for the petition during the next regularly scheduled board meeting;

(b) the board will accept public comment to gather information and take testimony regarding the proposed recommendations for revision of the USDOT curriculum and/or statewide protocols; and

(c) the board will consider the information and comments and approve or deny the proposed revision.

(4) The board shall approve the proposed revision:

(a) when it is demonstrated to the satisfaction of the board that granting the petitioner's request for revision of the board-approved curriculum and/or statewide protocols is necessary to provide appropriate standards of medical care;

(b) where, in the case of an individual service approval, the board finds that the public's interest in granting the revision clearly outweighs the interest of maintaining uniform board-approved USDOT curriculum, including revisions and/or statewide protocols; and

(c) where, in the opinion of the board, the revisions will provide adequate public health, safety and welfare protection.

AUTH: 50-6-203, MCA
IMP: 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XIV because the board's statutory obligation to protect the public requires that it have a fair and speedy process by which curriculum and protocols can be modified to ensure that the highest standards of care are available to the public in Montana in any and all emergency situations.

NEW RULE XV SCOPE OF PRACTICE (1) An EMT or a student in an approved course may only provide advanced skills (skills above the EMT-B licensure level) when:

(a) under the direct supervision of the EMS medical director who is taking responsibility for the EMT or student's actions; or

(b) operating with an EMS and functioning under formal, written and board-approved standing orders or protocols.

(2) An EMT currently licensed and in good standing in another state may function during a state and/or federally managed incident under the basic life support protocols adopted by the board, but shall:

(a) limit the EMT's practice to the duration of the state and/or federally managed incident;

(b) practice within the geographic area, whether on federal, state or private land, designated as being within the state and/or federally managed incident;

(c) practice at the basic level, even if the EMT is licensed at a higher level in another state; and

(d) provide proof of current licensure and good standing in another state.

(3) In the event of a bio-terrorism attack in which chemical agents are used or suspected as being used, EMTs at all levels who are appropriately trained are authorized by the board to carry auto-injectors and administer them as instructed to themselves and any others.

AUTH: 50-6-203, MCA
IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XV because 50-6-203, MCA, mandates that the board adopt rules relating to scope of practice. Previous rules were silent about scope of practice relating to performance during state and/or federal managed emergency disaster incidents. This rule also allows for exemptions with regard to scope of practice under specific and limited circumstances.

NEW RULE XVI MANAGEMENT OF INFECTIOUS WASTES (1) Each EMT licensed by the board shall store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps shall be properly packaged and labeled within the meaning of 75-10-1005, MCA, as required by the occupational safety and health administration (OSHA). If OSHA has no such requirements, the EMT shall place used sharps in a heavy, leak proof, puncture-resistant container and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.

AUTH: 50-6-203, MCA
IMP: 37-1-131, 50-6-203, MCA

REASON: There is reasonable necessity to adopt NEW RULE XVI in order to make the language that had appeared in the previous rule more technically correct. Because the board is proposing to repeal all previous rules and because this rule as it was drafted was medically-technically incorrect, it is necessary to adopt this new rule to correct the technical references.

6. The Board of Medical Examiners proposes to repeal the following rules:

24.156.1801 DEFINITIONS found at ARM pages 24-15501 through 15507.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, MCA

24.156.1802 EMERGENCY MEDICAL SERVICES BUREAU - DUTIES found at ARM pages 24-15507 and 24-15508.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, MCA

24.156.1803 APPLICATION - PROGRAM APPROVAL found at ARM page 24-15508.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-204, 50-6-205, MCA

24.156.1804 CANDIDATES - CERTIFICATION found at ARM page 24-15509.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-204, 50-6-205, MCA

24.156.1805 EQUIVALENCY found at ARM pages 24-15509 through 24-15511.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-204, 50-6-205, MCA

24.156.1806 SUSPENSION OR REVOCATION OF CERTIFICATION

found at ARM pages 24-15511 through 24-15513.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 37-1-131, 50-6-203, 50-6-204, 50-6-205, MCA

24.156.1807 MANAGEMENT OF INFECTIOUS WASTES found at ARM page 24-15513.

AUTH: 37-1-131, 50-6-203, 75-10-1006, MCA

IMP: 75-10-1006, MCA

24.156.1901 EMT-BASIC: ACTS ALLOWED found at ARM page 24-15551.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-204, MCA

24.156.1902 EMT-BASIC: COURSE REQUIREMENTS found at ARM pages 24-15551 and 24-15552.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-204, MCA

24.156.1903 EMT-BASIC: STUDENT PREREQUISITES found at ARM page 24-15552.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-204, MCA

24.156.1904 EMT-BASIC: CERTIFICATION found at ARM pages 24-15552 and 24-15553.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-204, MCA

24.156.1905 EMT-BASIC: RECERTIFICATION found at ARM page 24-15553.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-204, MCA

24.156.2001 EMT-ADVANCED: ACTS ALLOWED found at ARM pages 24-15581 and 24-15582.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-205, MCA

24.156.2002 EMT-ADVANCED: COURSE REQUIREMENTS found at ARM pages 24-15582 through 24-15585.

AUTH: 37-1-131, 50-6-203, MCA

IMP: 50-6-203, 50-6-205, MCA

24.156.2003 EMT-ADVANCED: STUDENT ELIGIBILITY found at

ARM page 24-15585.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-205, MCA

24.156.2004 EMT-ADVANCED: CERTIFICATION found at ARM page 24-15586.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-204, 50-6-205, MCA

24.156.2005 EMT-ADVANCED: RECERTIFICATION found at ARM page 24-15586.

AUTH: 50-6-203, MCA
IMP: 50-6-205, MCA

24.156.2011 EMT-DEFIBRILLATION: ACTS ALLOWED found at ARM page 24-15601.

AUTH: 50-6-203, MCA
IMP: 50-6-204, MCA

24.156.2012 EMT-DEFIBRILLATION: COURSE REQUIREMENTS found at ARM pages 24-15601 and 24-15602.

AUTH: 50-6-203, MCA
IMP: 50-6-204, MCA

24.156.2013 EMT-DEFIBRILLATION: STUDENT ELIGIBILITY found at ARM page 24-15602.

AUTH: 50-6-203, MCA
IMP: 50-6-204, MCA

24.156.2014 EMT-DEFIBRILLATION: CERTIFICATION found at ARM pages 24-15602 and 24-15603.

AUTH: 37-1-131, 50-6-203, MCA
IMP: 50-6-203, 50-6-204, MCA

REASON: There is reasonable necessity to repeal these rules because they are based on the outdated 1985 curriculum that no longer meets the medical needs of Montana patients in emergency situations. Advances in medical technology and protocols require that rules based on the 1999 USDOT curriculum be adopted in place of these repealed rules. The board also notes that it is proposing to repeal 21 existing rules and replace them with only 16 new rules.

7. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513,

Helena, Montana 59620-0513, by facsimile to (406) 841-2363, or by e-mail to dlibsmed@state.mt.us, and must be received no later than 5:00 p.m., October 1, 2003.

8. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://discoveringmontana.com/dli/med>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address does not excuse late submission of comments.

9. The Board of Medical Examiners maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Medical Examiners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2363, e-mailed to dlibsmed@state.mt.us, or may be made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

11. Anne O'Leary, attorney, has been designated to preside over and conduct the public hearings.

12. The Board of Medical Examiners will meet on November 21 and 22, 2003, at its offices, 301 South Park Avenue (fourth floor), Helena, Montana, during its regularly scheduled meeting, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed rule changes. Members of the public are welcome to attend and listen to the Board's deliberations.

BOARD OF MEDICAL EXAMINERS
Anne M. Williams, M.D., CHAIRMAN

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State August 18, 2003